

AMENDED IN ASSEMBLY JUNE 18, 2009

AMENDED IN SENATE APRIL 16, 2009

AMENDED IN SENATE MARCH 25, 2009

SENATE BILL

No. 126

Introduced by Senator Cedillo

February 5, 2009

An act to amend Sections 326.3, 326.45, and 326.5 of the Penal Code, relating to bingo, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 126, as amended, Cedillo. Bingo: remote caller bingo.

~~The~~

(1) *The* California Constitution allows the Legislature, by statute, to authorize cities and counties to provide for bingo games for charitable purposes. Existing law permits cities and counties to allow bingo games and remote caller bingo games, as defined, to be conducted by specified organizations for charitable purposes *pursuant to an ordinance that allows those games to be conducted only in accordance with specified requirements*. Existing law includes school districts among the organizations authorized to conduct bingo games, and includes charitable organizations affiliated with a school district among the organizations authorized to conduct remote caller bingo games.

This bill would delete the reference to school districts in the provisions specifying the organizations that may conduct bingo games and would instead authorize charitable organizations affiliated with a school district to conduct bingo games. *The bill, until January 1, 2011, would permit remote caller bingo games to be conducted pursuant to an ordinance*

that allows bingo games to be conducted, unless the governing body of the city or county opts to prohibit remote caller bingo by resolution. On and after January 1, 2011, the bill would permit remote caller bingo games to be conducted only pursuant to an ordinance that authorizes remote caller bingo. The bill would set forth a model ordinance to authorize remote caller bingo. The bill would make other conforming changes.

(2) Existing law provides that an organization authorized to conduct a remote caller bingo game shall not have overhead costs, as defined, exceeding 20% of gross sales.

This bill would provide that fees paid to financial institutions for the use and processing of credit card sales shall not be included as overhead costs for purposes of that provision. The bill would require credit card fees to be recorded separately from other expenses in the accounting of the organization.

~~Existing~~

(3) Existing law requires the California Gambling Control Commission to establish reasonable criteria regulating, and to require the licensure and regulation of, specified persons, including any person who provides services or equipment designed for use in the playing of remote caller bingo games by any nonprofit organization registered to conduct those bingo games.

This bill would delete the requirement that the commission establish criteria for the registration of the persons described above.

~~Existing~~

(4) Existing law requires the commission to establish reasonable criteria for, and to require the licensure and regulation of, any person who provides card-minding devices or other equipment or services designed for use in the playing of bingo games by any nonprofit organization registered to conduct bingo games.

This bill would delete the requirement that the commission establish criteria for the registration of the persons described above.

~~This~~

(5) This bill would make various technical, nonsubstantive changes to the provisions governing remote caller bingo games.

~~This~~

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 326.3 of the Penal Code is amended to
2 read:

3 326.3. (a) The Legislature finds and declares all of the
4 following:

5 (1) Nonprofit organizations provide important and essential
6 educational, philanthropic, and social services to the people of the
7 State of California.

8 (2) One of the great strengths of California is a vibrant nonprofit
9 sector.

10 (3) Nonprofit and philanthropic organizations touch the lives
11 of every Californian through service and employment.

12 (4) Many of these services would not be available if nonprofit
13 organizations did not provide them.

14 (5) There is a need to provide methods of fundraising to
15 nonprofit organizations to enable them to provide these essential
16 services.

17 (6) Historically, many nonprofit organizations have used
18 charitable bingo as one of their key fundraising strategies to
19 promote the mission of the charity.

20 (7) Legislation is needed to provide greater revenues for
21 nonprofit organizations to enable them to fulfill their charitable
22 purposes, and especially to meet their increasing social service
23 obligations.

24 (8) Legislation is also needed to clarify that existing law requires
25 that all charitable bingo must be played using a tangible card and
26 that the only permissible electronic devices to be used by charitable
27 bingo players are card-minding devices.

28 (b) Neither the prohibition on gambling in this chapter nor in
29 Chapter 10 (commencing with Section 330) applies to any remote
30 caller bingo game that is played or conducted in a city, county, or
31 city and county pursuant to an ordinance enacted under Section
32 19 of Article IV of the California Constitution, if the ordinance
33 allows a remote caller bingo game to be played or conducted only
34 in accordance with the requirements of this section, including the
35 following requirements:

36 (1) The game may be conducted only by the following
37 organizations:

(A) An organization that is exempted from the payment of the bank and corporation tax by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, or 23701l of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (l) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) Until January 1, 2011, a remote caller bingo game may be played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows games to be conducted only in accordance with the requirements of Section 326.5, unless the governing body of the city, county, or city and county opts to prohibit remote caller bingo by resolution. On and after January 1, 2011, a remote caller bingo game may be played or conducted in a city, county, or city and county only pursuant to an ordinance that authorizes remote caller bingo in accordance with the requirements of subdivision (b).

(2) (A) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote caller bingo in accordance with the requirements of subdivision (b):

Sec. __.01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec. __.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the [City, County, or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

1 *Sec. .03. Qualified Applicants: Applicants for Licensure.*

2 *(a) The following organizations are qualified to apply to the*
3 *License Official for a license to operate a bingo game if the receipts*
4 *of those games are used only for charitable purposes:*

5 *(1) An organization exempt from the payment of the bank and*
6 *corporation tax by Section 23701a, 23701b, 23701d, 23701e,*
7 *23701f, 23701g, 23701k, 23701w, or 23701 of the Revenue and*
8 *Taxation Code.*

9 *(2) A mobile home park association of a mobile home park that*
10 *is situated in the [City, County, or City and County].*

11 *(3) Senior citizen organizations.*

12 *(4) Charitable organizations affiliated with a school district.*

13 *(b) The application shall be in a form prescribed by the License*
14 *Official and shall be accompanied by a nonrefundable filing fee*
15 *in an amount determined by resolution of the [Governing Body of*
16 *the City, County, or City and County] from time to time. The*
17 *following documentation shall be attached to the application, as*
18 *applicable:*

19 *(1) A certificate issued by the Franchise Tax Board certifying*
20 *that the applicant is exempt from the payment of the bank and*
21 *corporation tax pursuant to Section 23701d of the Revenue and*
22 *Taxation Code.*

23 *(2) Other evidence as the License Official determines is*
24 *necessary to verify that the applicant is a duly organized mobile*
25 *home park association of a mobile home park situated in the [City,*
26 *County, or City and County].*

27 *Sec. .04. License Application: Verification.*

28 *The license shall not be issued until the License Official has*
29 *verified the facts stated in the application and determined that the*
30 *applicant is qualified.*

31 *Sec. .05. Annual Licenses.*

32 *A license issued pursuant to this chapter shall be valid until the*
33 *end of the calendar year, at which time the license shall expire. A*
34 *new license shall only be obtained upon filing a new application*
35 *and payment of the license fee. The fact that a license has been*
36 *issued to an applicant creates no vested right on the part of the*
37 *licensee to continue to offer bingo for play. The [Governing Body*
38 *of the City, County, or City and County] expressly reserves the*
39 *right to amend or repeal this chapter at any time by resolution. If*
40 *this chapter is repealed, all licenses issued pursuant to this chapter*

1 *shall cease to be effective for any purpose on the effective date of*
2 *the repealing resolution.*

3 *Sec. .06. Conditions of Licensure.*

4 *(a) Any license issued pursuant to this chapter shall be subject*
5 *to the conditions contained in Sections 326.3 and 326.4 of the*
6 *Penal Code, and each licensee shall comply with the requirements*
7 *of those provisions.*

8 *(b) Each license issued pursuant to this chapter shall be subject*
9 *to the following additional conditions:*

10 *(1) Bingo games shall not be conducted by any licensee on more*
11 *than two days during any week, except that a licensee may hold*
12 *one additional game, at its election, in each calendar quarter.*

13 *(2) The licensed organization is responsible for ensuring that*
14 *the conditions of this chapter and Sections 326.3 and 326.4 of the*
15 *Penal Code are complied with by the organization and its officers*
16 *and members. A violation of any one or more of those conditions*
17 *or provisions shall constitute cause for the revocation of the*
18 *organization's license. At the request of the organization, the*
19 *[Governing Body of the City, County, or City and County] shall*
20 *hold a public hearing before revoking any license issued pursuant*
21 *to this chapter.*

22
23 *(B) For purposes of this subdivision, the requirement in an*
24 *ordinance of a city, county, or city and county that a person must*
25 *be physically present to participate in the play of bingo means that*
26 *the person must be physically present at a remote caller bingo*
27 *site, and not exclusively at the site in which the balls are drawn*
28 *and numbers or symbols are called.*

29 *(C) Nothing in this section shall require a city, county, or city*
30 *and county to use this model ordinance in order to authorize*
31 *remote caller bingo.*

32 *(e)*

33 *(d) It is a misdemeanor for any person to receive or pay a profit,*
34 *wage, or salary from any remote caller bingo game, provided that*
35 *administrative, managerial, technical, financial, and security*
36 *personnel employed by the organization conducting the bingo*
37 *game may be paid reasonable fees for services rendered from the*
38 *revenues of bingo games, as provided in subdivision ~~(f)~~ (m), except*
39 *that fees paid under those agreements shall not be determined as*

1 a percentage of receipts or other revenues from, or be dependant
2 on the outcome of, the game.

3 ~~(d)~~

4 (e) A violation of subdivision~~(e)~~ (d) shall be punishable by a
5 fine not to exceed ten thousand dollars (\$10,000), which fine shall
6 be deposited in the general fund of the city, county, or city and
7 county that enacted the ordinance authorizing the remote caller
8 bingo game. A violation of any provision of this section, other
9 than subdivision~~(e)~~ (d), is a misdemeanor.

10 ~~(e)~~

11 (f) The city, county, or city and county that enacted the
12 ordinance authorizing the remote caller bingo game, or the Attorney
13 General, may bring an action to enjoin a violation of this section.

14 ~~(f)~~

15 (g) No minors shall be allowed to participate in any remote
16 caller bingo game.

17 ~~(g)~~

18 (h) A remote caller bingo game shall not include any site that
19 is not located within this state.

20 ~~(h)~~

21 (i) An organization authorized to conduct a remote caller bingo
22 game pursuant to subdivision (b) shall conduct the game only on
23 property that is owned or leased by the organization, or the use of
24 which is donated to the organization. Nothing in this subdivision
25 shall be construed to require that the property that is owned or
26 leased by, or the use of which is donated to, the organization be
27 used or leased exclusively by, or donated exclusively to, that
28 organization.

29 ~~(i)~~

30 (j) (1) All remote caller bingo games shall be open to the public,
31 not just to the members of the authorized organization.

32 (2) No more than 750 players may participate in a remote caller
33 bingo game in a single location.

34 (3) If the Governor of California or the President of the United
35 States declares a state of emergency in response to a natural disaster
36 or other public catastrophe occurring in California, an organization
37 authorized to conduct remote caller bingo games may, while that
38 declaration is in effect, conduct a remote caller bingo game
39 pursuant to this section with more than 750 participants in a single
40 venue if the net proceeds of the game, after deduction of prizes

1 and overhead expenses, are donated to or expended exclusively
2 for the relief of the victims of the disaster or catastrophe, and the
3 organization gives the California Gambling Control Commission
4 at least 10 days' written notice of the intent to conduct that game.

5 (4) An organization authorized to conduct remote caller bingo
6 games shall provide the commission with at least 30 days' advance
7 written notice of its intent to conduct a remote caller bingo game.
8 That notice shall include all of the following:

9 (A) The legal name of the organization and the address of record
10 of the agent upon whom legal notice may be served.

11 (B) The locations of the caller and remote players, whether the
12 property is owned by the organization or donated, and if donated,
13 by whom.

14 (C) The name of the licensed caller and site manager.

15 (D) The names of administrative, managerial, technical,
16 financial, and security personnel employed.

17 (E) The name of the vendor and any person or entity maintaining
18 the equipment used to operate and transmit the game.

19 (F) The name of the person designated as having a fiduciary
20 responsibility for the game pursuant to paragraph (2) of subdivision
21 ~~(j)~~ (k).

22 (G) The license numbers of all persons specified in
23 subparagraphs (A) to (F), inclusive, who are required to be licensed.

24 (H) A copy of the local ordinance for the city, county, or city
25 and county in which the game will be played. The commission
26 shall post the ordinance on its Internet Web site.

27 ~~(j)~~

28 (k) (1) A remote caller bingo game shall be operated and staffed
29 only by members of the authorized organization that organized it.
30 Those members shall not receive a profit, wage, or salary from
31 any remote caller bingo game. Only the organization authorized
32 to conduct a remote caller bingo game shall operate that game, or
33 participate in the promotion, supervision, or any other phase of a
34 remote caller bingo game. Subject to the provisions of subdivision
35 ~~(h)~~ (m), this subdivision shall not preclude the employment of
36 administrative, managerial, technical, financial, or security
37 personnel who are not members of the authorized organization at
38 a location participating in the remote caller bingo game by the
39 organization conducting the game. Notwithstanding any other
40 provisions of law, exclusive or other agreements between the

1 authorized organization and other entities or persons to provide
2 services in the administration, management, or conduct of the game
3 shall not be considered a violation of the prohibition against
4 holding a legally cognizable financial interest in the conduct of
5 the remote caller bingo game by persons or entities other than the
6 charitable organization, or other entity authorized to conduct the
7 remote caller bingo games, provided that those persons or entities
8 obtain the gambling licenses, the key employee licenses, or the
9 work permits required by, and otherwise comply with, Chapter 5
10 (commencing with Section 19800) of Division 8 of the Business
11 and Professions Code. Fees to be paid under any such agreements
12 shall be reasonable and shall not be determined as a percentage of
13 receipts or other revenues from, or be dependent on the outcome
14 of, the game.

15 (2) An organization that conducts a remote caller bingo game
16 shall designate a person as having fiduciary responsibility for the
17 game.

18 ~~(k)~~

19 (l) No individual, corporation, partnership, or other legal entity,
20 except the organization authorized to conduct or participate in a
21 remote caller bingo game, shall hold a legally cognizable financial
22 interest in the conduct of such a game.

23 ~~(t)~~

24 (m) An organization authorized to conduct a remote caller bingo
25 game pursuant to this section shall not have overhead costs
26 exceeding 20 percent of gross sales, except that the limitations of
27 this section shall not apply to one-time, nonrecurring capital
28 acquisitions. For purposes of this subdivision, “overhead costs”
29 includes, but is not limited to, amounts paid for rent and equipment
30 leasing and the reasonable fees authorized to be paid to
31 administrative, managerial, technical, financial, and security
32 personnel employed by the organization pursuant to subdivision
33 ~~(e)~~: (d). *“Overhead costs” shall not include fees paid to financial*
34 *institutions for the use and processing of credit card sales. Credit*
35 *card fees shall be recorded separately from other expenses in the*
36 *accounting of the organization.*

37 ~~(m)~~

38 (n) No person shall be allowed to participate in a remote caller
39 bingo game unless the person is physically present at the time and
40 place where the remote caller bingo game is being conducted. A

1 person shall be deemed to be physically present at the place where
2 the remote caller bingo game is being conducted if he or she is
3 present at any of the locations participating in the remote caller
4 bingo game in accordance with this section.

5 ~~(n)~~

6 (o) (1) An organization shall not cosponsor a remote caller
7 bingo game with one or more other organizations unless one of
8 the following is true:

9 (A) All of the cosponsors are affiliated under the master charter
10 or articles and bylaws of a single organization.

11 (B) All of the cosponsors are affiliated through an organization
12 described in paragraph (1) of subdivision (b), and have the same
13 Internal Revenue Service activity code.

14 (2) Notwithstanding paragraph (1), a maximum of 10
15 unaffiliated organizations described in paragraph (1) of subdivision
16 (b) may enter into an agreement to cosponsor a remote caller game,
17 provided the game shall have not more than 10 locations.

18 (3) An organization shall not conduct remote caller bingo more
19 than one day per week.

20 (4) Before sponsoring or operating any game authorized under
21 paragraph (1) or (2), each of the cosponsoring organizations shall
22 have entered into a written agreement, a copy of which shall be
23 provided to the commission, setting forth how the expenses and
24 proceeds of the game are to be allocated among the participating
25 organizations, the bank accounts into which all receipts are to be
26 deposited and from which all prizes are to be paid, and how game
27 records are to be maintained and subjected to annual audit.

28 ~~(o)~~

29 (p) The value of prizes awarded during the conduct of any
30 remote caller bingo game shall not exceed 37 percent of the gross
31 receipts for that game. Every remote caller bingo game shall be
32 played until a winner is declared. Progressive prizes are prohibited.
33 The declared winner of a remote caller bingo game shall provide
34 his or her identifying information and a mailing address to the
35 onsite manager of the remote caller bingo game. Prizes shall be
36 paid only by check; no cash prizes shall be paid. The organization
37 conducting the remote caller bingo game may issue a check to the
38 winner at the time of the game, or may send a check to the declared
39 winner by United States Postal Service certified mail, return receipt
40 requested. All prize money exceeding state and federal exemption

limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

~~(p)~~

(q) (1) The California Gambling Control Commission shall regulate remote caller bingo, including, but not limited to, licensure and operation. The commission shall establish reasonable criteria regulating, and shall require the licensure of, the following:

(A) Any person who conducts a remote caller bingo game pursuant to this section, including, but not limited to, an employee, a person having fiduciary responsibility for a remote caller bingo game, a site manager, and a bingo caller.

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization.

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) The Department of Justice shall conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval shall be accompanied by a nonrefundable fee, the amount of which shall be adopted by the commission by regulation.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the commission relating to this act. Funds from the California Bingo Fund shall be available to the commission upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

The commission may assess and collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

~~(q)~~

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter

1 maintain valid work permits, as defined in Section 19805 of the
2 Business and Professions Code.

3 ~~(r)~~

4 (s) An organization that conducts remote caller bingo games
5 shall retain records in connection with the remote caller bingo
6 game for five years.

7 ~~(s)~~

8 (t) (1) All equipment used for remote caller bingo shall be
9 approved in advance by the California Gambling Control
10 Commission pursuant to regulations adopted pursuant to
11 subdivision (r) of Section 19841 of the Business and Professions
12 Code.

13 (2) The California Gambling Control Commission shall monitor
14 operation of the transmission and other equipment used for remote
15 caller bingo, and monitor the game.

16 ~~(t)~~

17 (u) (1) As used in this section, “remote caller bingo game”
18 means a game of bingo, as defined in subdivision (o) of Section
19 326.5, in which the numbers or symbols on randomly drawn plastic
20 balls are announced by a natural person present at the site at which
21 the live game is conducted, and the organization conducting the
22 bingo game uses audio and video technology to link any of its
23 in-state facilities for the purpose of transmitting the remote calling
24 of a live bingo game from a single location to multiple locations
25 owned, leased, or rented by that organization, or as described in
26 subdivision ~~(n)~~ (o) of this section. The audio or video technology
27 used to link the facilities may include cable, Internet, satellite,
28 broadband, or telephone technology, or any other means of
29 electronic transmission that ensures the secure, accurate, and
30 simultaneous transmission of the announcement of numbers or
31 symbols in the game from the location at which the game is called
32 by a natural person to the remote location or locations at which
33 players may participate in the game. The drawing of each ball
34 bearing a number or symbol by the natural person calling the game
35 shall be visible to all players as the ball is drawn, including through
36 a simultaneous live video feed at remote locations at which players
37 may participate in the game.

38 (2) The caller in the live game must be licensed by the California
39 Gambling Control Commission. A game may be called by a
40 nonlicensed caller if the drawing of balls and calling of numbers

1 or symbols by that person is observed and personally supervised
2 by a licensed caller.

3 (3) Remote caller bingo games shall be played using traditional
4 paper or other tangible bingo cards and daubers, and shall not be
5 played by using electronic devices, except card-minding devices,
6 as described in paragraph (1) of subdivision (p) of Section 326.5.

7 (4) Prior to conducting a remote caller bingo game, the
8 organization that conducts remote caller bingo shall submit to the
9 commission the controls, methodology, and standards of game
10 play, which shall include, but not be limited to, the equipment used
11 to select bingo numbers and create or originate cards, control or
12 maintenance, distribution to participating locations, and distribution
13 to players. Those controls, methodologies, and standards shall be
14 subject to prior approval by the commission, provided that the
15 controls shall be deemed approved by the commission after 90
16 days from the date of submission unless disapproved.

17 ~~(t)~~

18 (v) A location shall not be eligible to participate in a remote
19 caller bingo game if bingo games are conducted at that location
20 in violation of Section 326.5 or any regulation adopted by the
21 commission pursuant to Section 19841 of the Business and
22 Professions Code, including, but not limited to, a location at which
23 unlawful electronic devices are used.

24 ~~(v)~~

25 (w) (1) The vendor of the equipment used in a remote caller
26 bingo game shall have its books and records audited at least
27 annually by an independent California certified public accountant
28 and shall submit the results of that audit to the California Gambling
29 Control Commission within 120 days after the close of the vendor's
30 fiscal year. In addition, the California Gambling Control
31 Commission shall audit the books and records of the vendor at any
32 time.

33 (2) An organization that conducts remote caller bingo games
34 shall provide copies of the records pertaining to those games to
35 the California Gambling Control Commission within 30 days after
36 the end of each calendar quarter. In addition, those records shall
37 be audited by an independent California certified public accountant
38 at least annually and copies of the audit reports shall be provided
39 to the California Gambling Control Commission within 120 days
40 after the close of the organization's fiscal year.

1 (3) The costs of the licensing and audits required by this section
2 shall be borne by the person or entity required to be licensed or
3 audited. The audit shall enumerate the receipts for remote caller
4 bingo, the prizes disbursed, the overhead costs, and the amount
5 retained by the nonprofit organization. The commission may audit
6 the books and records of an organization that conducts remote
7 caller bingo games at any time.

8 (4) If, during an audit, the commission identifies practices in
9 violation of this section, the license for the audited entity may be
10 suspended pending review and hearing before the commission for
11 a final determination.

12 (5) No audit required to be conducted by the commission shall
13 commence before January 1, 2010.

14 ~~(w)~~

15 (x) (1) The provisions of this section are severable. If any
16 provision of this section or its application is held invalid, that
17 invalidity shall not affect other provisions or applications that can
18 be given effect without the invalid provision or application.

19 (2) Notwithstanding paragraph (1), if paragraph (1) or (3) of
20 subdivision~~(t)~~ (u), or the application of either of those provisions,
21 is held invalid, this entire section shall be invalid.

22 ~~(x)~~

23 (y) The commission shall submit a report to the Legislature, on
24 or before January 1, 2012, on the fundraising effectiveness and
25 regulation of remote caller bingo, and other matters that are relevant
26 to the public interest regarding remote caller bingo.

27 ~~(y)~~

28 (z) The following definitions apply for purposes of this section:

29 (1) "Commission" means the California Gambling Control
30 Commission.

31 (2) "Person" includes a natural person, corporation, limited
32 liability company, partnership, trust, joint venture, association, or
33 any other business organization.

34 *SEC. 2. Section 326.45 of the Penal Code is amended to read:*

35 326.45. Up to five hundred thousand dollars (\$500,000), as
36 determined by order of the Director of Finance, is hereby
37 appropriated from the California Bingo Fund to the California
38 Gambling Control Commission for use in the 2008–09 fiscal year
39 for the purposes described in subparagraph (C) of paragraph (3)
40 of subdivision~~(p)~~ (q) of Section 326.3.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 326.5 of the Penal Code is amended to read:

3 326.5. (a) Neither the prohibition on gambling in this chapter
4 nor in Chapter 10 (commencing with Section 330) applies to any
5 bingo game that is conducted in a city, county, or city and county
6 pursuant to an ordinance enacted under Section 19 of Article IV
7 of the State Constitution, if the ordinance allows games to be
8 conducted only in accordance with this section and only by
9 organizations exempted from the payment of the bank and
10 corporation tax by Sections 23701a, 23701b, 23701d, 23701e,
11 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and
12 Taxation Code and by mobilehome park associations, senior
13 citizens organizations, and charitable organizations affiliated with
14 a school district; and if the receipts of those games are used only
15 for charitable purposes.

16 (b) It is a misdemeanor for any person to receive or pay a profit,
17 wage, or salary from any bingo game authorized by Section 19 of
18 Article IV of the State Constitution. Security personnel employed
19 by the organization conducting the bingo game may be paid from
20 the revenues of bingo games, as provided in subdivisions (j) and
21 (k).

22 (c) A violation of subdivision (b) shall be punishable by a fine
23 not to exceed ten thousand dollars (\$10,000), which fine is
24 deposited in the general fund of the city, county, or city and county
25 that enacted the ordinance authorizing the bingo game. A violation
26 of any provision of this section, other than subdivision (b), is a
27 misdemeanor.

28 (d) The city, county, or city and county that enacted the
29 ordinance authorizing the bingo game may bring an action to enjoin
30 a violation of this section.

31 (e) No minors shall be allowed to participate in any bingo game.

32 (f) An organization authorized to conduct bingo games pursuant
33 to subdivision (a) shall conduct a bingo game only on property
34 owned or leased by it, or property whose use is donated to the
35 organization, and which property is used by that organization for
36 an office or for performance of the purposes for which the
37 organization is organized. Nothing in this subdivision shall be
38 construed to require that the property owned or leased by, or whose
39 use is donated to, the organization be used or leased exclusively
40 by, or donated exclusively to, that organization.

1 (g) All bingo games shall be open to the public, not just to the
2 members of the authorized organization.

3 (h) A bingo game shall be operated and staffed only by members
4 of the authorized organization that organized it. Those members
5 shall not receive a profit, wage, or salary from any bingo game.
6 Only the organization authorized to conduct a bingo game shall
7 operate such a game, or participate in the promotion, supervision,
8 or any other phase of a bingo game. This subdivision does not
9 preclude the employment of security personnel who are not
10 members of the authorized organization at a bingo game by the
11 organization conducting the game.

12 (i) No individual, corporation, partnership, or other legal entity,
13 except the organization authorized to conduct a bingo game, shall
14 hold a financial interest in the conduct of a bingo game.

15 (j) With respect to organizations exempt from payment of the
16 bank and corporation tax by Section 23701d of the Revenue and
17 Taxation Code, all profits derived from a bingo game shall be kept
18 in a special fund or account and shall not be commingled with any
19 other fund or account. Those profits shall be used only for
20 charitable purposes.

21 (k) With respect to other organizations authorized to conduct
22 bingo games pursuant to this section, all proceeds derived from a
23 bingo game shall be kept in a special fund or account and shall not
24 be commingled with any other fund or account. Proceeds are the
25 receipts of bingo games conducted by organizations not within
26 subdivision (j). Those proceeds shall be used only for charitable
27 purposes, except as follows:

28 (1) The proceeds may be used for prizes.

29 (2) (A) Except as provided in subparagraph (B), a portion of
30 the proceeds, not to exceed 20 percent of the proceeds before the
31 deduction for prizes, or two thousand dollars (\$2,000) per month,
32 whichever is less, may be used for the rental of property and for
33 overhead, including the purchase of bingo equipment,
34 administrative expenses, security equipment, and security
35 personnel.

36 (B) For the purposes of bingo games conducted by the Lake
37 Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20
38 percent of the proceeds before the deduction for prizes, or three
39 thousand dollars (\$3,000) per month, whichever is less, may be
40 used for the rental of property and for overhead, including the

1 purchase of bingo equipment, administrative expenses, security
2 equipment, and security personnel. Any amount of the proceeds
3 that is additional to that permitted under subparagraph (A), up to
4 one thousand dollars (\$1,000), shall be used for the purpose of
5 financing the rebuilding of the facility and the replacement of
6 equipment that was destroyed by fire in 2007. The exception to
7 subparagraph (A) that is provided by this subparagraph shall remain
8 in effect only until the cost of rebuilding the facility is repaid, or
9 January 1, 2019, whichever occurs first.

10 (3) The proceeds may be used to pay license fees.

11 (4) A city, county, or city and county that enacts an ordinance
12 permitting bingo games may specify in the ordinance that if the
13 monthly gross receipts from bingo games of an organization within
14 this subdivision exceed five thousand dollars (\$5,000), a minimum
15 percentage of the proceeds shall be used only for charitable
16 purposes not relating to the conducting of bingo games and that
17 the balance shall be used for prizes, rental of property, overhead,
18 administrative expenses, and payment of license fees. The amount
19 of proceeds used for rental of property, overhead, and
20 administrative expenses is subject to the limitations specified in
21 paragraph (2).

22 (l) (1) A city, county, or city and county may impose a license
23 fee on each organization that it authorizes to conduct bingo games.
24 The fee, whether for the initial license or renewal, shall not exceed
25 fifty dollars (\$50) annually, except as provided in paragraph (2).
26 If an application for a license is denied, one-half of any license
27 fee paid shall be refunded to the organization.

28 (2) In lieu of the license fee permitted under paragraph (1), a
29 city, county, or city and county may impose a license fee of fifty
30 dollars (\$50) paid upon application. If an application for a license
31 is denied, one-half of the application fee shall be refunded to the
32 organization. An additional fee for law enforcement and public
33 safety costs incurred by the city, county, or city and county that
34 are directly related to bingo activities may be imposed and shall
35 be collected monthly by the city, county, or city and county issuing
36 the license; however, the fee shall not exceed the actual costs
37 incurred in providing the service.

38 (m) No person shall be allowed to participate in a bingo game,
39 unless the person is physically present at the time and place where
40 the bingo game is being conducted.

1 (n) The total value of prizes available to be awarded during the
2 conduct of any bingo games shall not exceed five hundred dollars
3 (\$500) in cash or kind, or both, for each separate game which is
4 held.

5 (o) As used in this section, “bingo” means a game of chance in
6 which prizes are awarded on the basis of designated numbers or
7 symbols that are marked or covered by the player on a tangible
8 card in the player’s possession and that conform to numbers or
9 symbols, selected at random and announced by a live caller.
10 Notwithstanding Section 330c, as used in this section, the game
11 of bingo includes tangible cards having numbers or symbols that
12 are concealed and preprinted in a manner providing for distribution
13 of prizes. Electronics or video displays shall not be used in
14 connection with the game of bingo, except in connection with the
15 caller’s drawing of numbers or symbols and the public display of
16 that drawing, and except as provided in subdivision (p). The
17 winning cards shall not be known prior to the game by any person
18 participating in the playing or operation of the bingo game. All
19 preprinted cards shall bear the legend, “for sale or use only in a
20 bingo game authorized under California law and pursuant to local
21 ordinance.” Only a covered or marked tangible card possessed by
22 a player and presented to an attendant may be used to claim a prize.
23 It is the intention of the Legislature that bingo as defined in this
24 subdivision applies exclusively to this section and shall not be
25 applied in the construction or enforcement of any other provision
26 of law.

27 (p) (1) Players who are physically present at a bingo game may
28 use hand-held, portable card-minding devices, as described in this
29 subdivision, to assist in monitoring the numbers or symbols
30 announced by a live caller as those numbers or symbols are called
31 in a live game. Card-minding devices may not be used in
32 connection with any game where a bingo card may be sold or
33 distributed after the start of the ball draw for that game. A
34 card-minding device shall do all of the following:

35 (A) Be capable of storing in the memory of the device bingo
36 faces of tangible cards purchased by a player.

37 (B) Provide a means for bingo players to input manually each
38 individual number or symbol announced by a live caller.

39 (C) Compare the numbers or symbols entered by the player to
40 the bingo faces previously stored in the memory of the device.

1 (D) Identify winning bingo patterns that exist on the stored
2 bingo faces.

3 (2) A card-minding device shall perform no functions involving
4 the play of the game other than those described in paragraph (1).
5 Card-minding devices shall not do any of the following:

6 (A) Be capable of accepting or dispensing any coins, currency,
7 or other representative of value or on which value has been
8 encoded.

9 (B) Be capable of monitoring any bingo card face other than
10 the faces of the tangible bingo card or cards purchased by the
11 player for that game.

12 (C) Display or represent the game result through any means,
13 including, but not limited to, video or mechanical reels or other
14 slot machine or casino game themes, other than highlighting the
15 winning numbers or symbols marked or covered on the tangible
16 bingo cards or giving an audio alert that the player's card has a
17 prize-winning pattern.

18 (D) Determine the outcome of any game or be physically or
19 electronically connected to any component that determines the
20 outcome of a game or to any other bingo equipment, including,
21 but not limited to, the ball call station, or to any other card-minding
22 device. No other player-operated or player-activated electronic or
23 electromechanical device or equipment is permitted to be used in
24 connection with a bingo game.

25 (3) (A) A card-minding device shall be approved in advance
26 by the commission as meeting the requirements of this section and
27 any additional requirements stated in regulations adopted by the
28 commission. Any proposed material change to the device, including
29 any change to the software used by the device, shall be submitted
30 to the commission and approved by the commission prior to
31 implementation.

32 (B) In accordance with Chapter 5 (commencing with Section
33 19800) of Division 8 of the Business and Professions Code, the
34 commission shall establish reasonable criteria for, and require the
35 licensure of, any person that directly or indirectly manufactures,
36 distributes, supplies, vends, leases, or otherwise provides
37 card-minding devices or other supplies, equipment, or services
38 related to card-minding devices designed for use in the playing of
39 bingo games by any nonprofit organization.

1 (C) A person or entity that supplies or services any card-minding
2 device shall meet all licensing requirements established by the
3 commission in regulations.

4 (4) The costs of any testing, certification, license, or
5 determination required by this subdivision shall be borne by the
6 person or entity seeking it.

7 (5) On and after January 1, 2010, the commission and the
8 Department of Justice may inspect all card-minding devices at any
9 time without notice, and may immediately prohibit the use of any
10 device that does not comply with the requirements of subdivision
11 (r) of Section 19841 of the Business and Professions Code. The
12 Department of Justice may at any time, without notice, impound
13 any device the use of which has been prohibited by the commission.

14 (6) The California Gambling Control Commission shall issue
15 regulations to implement the requirements of this subdivision and
16 may issue regulations regarding the means by which the operator
17 of a bingo game, as required by applicable law, may offer
18 assistance to a player with disabilities in order to enable that player
19 to participate in a bingo game, provided that the means of providing
20 that assistance shall not be through any electronic,
21 electromechanical, or other device or equipment that accepts the
22 insertion of any coin, currency, token, credit card, or other means
23 of transmitting value, and does not constitute or is not a part of a
24 system that constitutes a video lottery terminal, slot machine, or
25 device prohibited by Chapter 10 (commencing with Section 330).

26 (7) The following definitions apply for purposes of this
27 subdivision:

28 (A) "Commission" means the California Gambling Control
29 Commission.

30 (B) "Person" includes a natural person, corporation, limited
31 liability company, partnership, trust, joint venture, association, or
32 any other business organization.

33 ~~SEC. 3.~~

34 *SEC. 4.* This act is an urgency statute necessary for the
35 immediate preservation of the public peace, health, or safety within
36 the meaning of Article IV of the Constitution and shall go into
37 immediate effect. The facts constituting the necessity are:

38 In order to ensure that bingo games are adequately regulated and
39 that appropriate charitable organizations may conduct fundraising

- 1 through bingo games at the earliest possible time, it is necessary
- 2 that this act take effect immediately.

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